

Supreme Court Appeals  
Pending Cases  
(12-19-12)

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1.	Style	In Re: Angela E. et al.
2.	Docket Number	W2011-01588-SC-R11-PT
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/angelatinreopn.pdf">http://www.tncourts.gov/sites/default/files/angelatinreopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/angelatdis.pdf">http://www.tncourts.gov/sites/default/files/angelatdis.pdf</a>
4.	Lower Court Summary	This appeal involves a petition to terminate parental rights that was filed in 2005. At the hearing, the Father consented to the termination of his parental rights, so the trial court entered an order terminating his parental rights without making findings of fact and conclusions of law regarding grounds for termination and the children's best interest. Father subsequently challenged the trial court's order on appeal, and the Supreme Court reversed and remanded for the trial court to hold a new hearing and prepare an order with the requisite findings. On remand, the trial court found that Father had not abandoned the children by willfully failing to visit them or by willfully failing to support them, and therefore it declined to terminate his parental rights. We reverse and remand for further proceedings.
5.	Status	Heard 11/07/12 in Jackson

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1.	Style	Andrew K. Armbrister v. Melissa H. Armbrister
2.	Docket Number	E2012-00018-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/armbristeraopn.pdf">http://tncourts.gov/sites/default/files/armbristeraopn.pdf</a> <a href="http://tncourts.gov/sites/default/files/armbristerakdis.pdf">http://tncourts.gov/sites/default/files/armbristerakdis.pdf</a>
4.	Lower Court Summary	The parties were divorced on September 2, 2009, and the Trial Court entered a Permanent Parenting Plan. On February 11, 2011, the father filed a Motion to Modify the PPP, alleging a change in circumstances. Following trial of the issues, the Trial Court increased the number of days the father would have the children and reduced the award of child support. The mother has appealed, we reverse the Trial Court.
5.	Status	Granted 10/16/12; Appellant's brief filed 11/13/12; Appellee's brief filed 12/14/12

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1.	Style	Timmy Dale Britt v. Dyer's Employment Agency, Inc. et al
2.	Docket Number	W2011-00929-SC-WCM-WC
3.	Lower Court Decision Link	n/a

4.	Lower Court Summary	The employee developed carpal tunnel syndrome while working on an assignment for his employer, a temporary labor agency. The employee's assignment ended before he was released to return to work. The employee did not receive another assignment from the employer, and he found alternative work elsewhere. The trial court held that the one and one-half times impairment multiplier in Tennessee Code Annotated section 50-6-241(d)(1)(A) applied because of the temporary nature of the employment and limited the permanent partial disability award accordingly. The employee has appealed, contending that the trial court erred by applying the lower multiplier. We hold that the trial court erred. We vacate a portion of the trial court's judgment and remand for further proceedings.
5.	Status	Heard 11/07/12 in Jackson
1.	Style	Estate of Ina Ruth Brown
2.	Docket Number	E2011-00179-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/inreestateofbrownopn.pdf">http://tncourts.gov/sites/default/files/inreestateofbrownopn.pdf</a>
4.	Lower Court Summary	This appeal arises from a dispute concerning a contract to execute mutual wills. Ina Ruth Brown ("Mrs. Brown"), and her husband, Roy Brown, Jr. ("Mr. Brown"), executed mutual wills as agreed by contract. After Mr. Brown's death, Mrs. Brown executed a new will. Mrs. Brown died. Rockford Evan Estes ("Defendant"), Mrs. Brown's son, submitted the new will for probate. Mr. Brown's adult children, Roy E. Brown, III, Joan Brown Moyers, and Donna Brown Ellis ("the Plaintiffs") filed this will contest suit in the Chancery Court for Knox County, Probate Division ("the Trial Court"), contesting the new will on the basis that, among other things, the mutual wills between Mr. Brown and Mrs. Brown were irrevocable. Both the Plaintiffs and Defendant filed a Motion for Summary Judgment. The Trial Court denied Defendant's motion, granted the Plaintiffs' motion for summary judgment, and voided the new will created by Mrs. Brown. Defendant appeals. We hold that the Trial Court did not err in denying Defendant's motion for summary judgment because the Trial Court did have subject matter jurisdiction to hear this will contest based on this breach of contract claim. We further find that the Trial Court did not err in granting the Plaintiffs' motion for summary judgment after also finding that the June 13, 2002 contract to execute mutual wills was supported by adequate consideration. We affirm the judgment of the Trial Court.
5.	Status	Heard 09/04/12 in Knoxville at UT College of Law
1.	Style	Doris Cannon as Conservator for the Use and Benefit of Juanita E. Good v. Bhasker Reddy, M.D.
2.	Docket Number	M2012-01332-SC-S10-CV
3.	Lower Court Decision Link	n/a

4.	Lower Court Summary	n/a
5.	Status	To be heard 02/06/13 in Nashville
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1.	Style	City of Memphis, Tennessee et al. v. Tre Hargett, Secretary of State et al.
2.	Docket Number	M2012-02141-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/cityofmemphisopnjudorder.pdf">http://www.tncourts.gov/sites/default/files/cityofmemphisopnjudorder.pdf</a>
4.	Lower Court Summary	The City of Memphis and two persons who had to cast provisional ballots in the August 2012 election because they lacked sufficient photographic identification filed a declaratory judgment action seeking to have the photographic identification requirement for voting declared unconstitutional, or to have the Memphis library photographic identification card declared sufficient identification for purposes of the voting law. The trial court found that the plaintiffs did not have standing, that the photographic identification requirement was constitutional and that the Memphis library photographic identification card was not acceptable under the law as sufficient identification for voting. The plaintiffs appealed. We find that the plaintiffs have standing, that the law is constitutional and that the Memphis library photographic identification card is acceptable under the law as sufficient proof of identification for voting.
5.	Status	To be heard 02/07/13 in Nashville
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1.	Style	Joshua Cooper et al. v. Logistics Insight Corp. et al.
2.	Docket Number	M2010-01262-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/joshua_cooper_v_logistics_insight_corp.pdf">http://www.tncourts.gov/sites/default/files/joshua_cooper_v_logistics_insight_corp.pdf</a>
4.	Lower Court Summary:	This appeal arises out of a personal injury lawsuit, wherein plaintiff filed suit for injuries suffered in the course of his employment. Plaintiff's employer was allowed to intervene to assert a subrogation lien to recover workers' compensation benefits paid to plaintiff. Plaintiff settled his claim against the defendants, and an order of voluntary dismissal was entered. The intervenors moved to set the case for trial, asserting that the settlement between plaintiffs and defendants was negotiated without the consent of the intervenors and did not take into account plaintiff's future medical expenses, for which intervenors would be responsible. The trial court granted the intervenors' motion to set the case for trial, but subsequently dismissed the intervening petition, finding that the settlement resolved all claims against the defendants and that the intervening petition failed to state a claim upon which relief could be granted. Finding that dismissal of the intervening petition was error, the judgment of the trial court is reversed and the case remanded.

5.	Status	Heard 02/16/12 in Nashville
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1.	Style	State ex rel. Robert E. Cooper, Jr., Attorney General and Reporter of the State of Tennessee v. NV Sumatra Tobacco Trading Company
2.	Docket Number	M2010-01955-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/state_of_tennessee_by_and_through_robert_e_cooper_jr_attorney_general_and_reporter_for_the_state_of_tennessee_v_nv_sumatra_tobacco_trading_company.pdf">http://www.tncourts.gov/sites/default/files/state_of_tennessee_by_and_through_robert_e_cooper_jr_attorney_general_and_reporter_for_the_state_of_tennessee_v_nv_sumatra_tobacco_trading_company.pdf</a>
4.	Lower Court Summary	<p>This appeal involves <i>in personam</i> jurisdiction over a foreign defendant. Appellant State of Tennessee brought suit against Appellee tobacco product manufacturer, under the Tobacco Escrow Fund Act, Tennessee Code Annotated Sections 47-31-101 <i>et seq.</i>, alleging that Appellee had failed to make escrow deposits, as required under the Act, for cigarettes sold in Tennessee. Based upon the trial court's finding that it lacked personal jurisdiction over the Appellee, it entered summary judgment in favor of the manufacturer. The State appeals. Upon review, we conclude that: (1) the facts of this case show that the manufacturer intentionally used a distribution system with the desired result of selling its product in all fifty states, including Tennessee, so as to support a finding that the manufacturer had minimum contacts with the State necessary to invoke the exercise of personal jurisdiction; (2) the exercise of personal jurisdiction, under the facts of this case, is reasonable and fair; (3) the manufacturer is subject to regulation under the Act; and (4) the Act is not unconstitutional. Moreover, we conclude that: (1) Appellee is a tobacco products manufacturer, as defined by the Escrow Fund Act; (2) Appellee's cigarettes were sold in Tennessee; and (3) Appellee is, therefore, liable for escrow payments under the Escrow Fund Act. Consequently, we grant the State's motion for summary judgment. The order of the trial court is reversed, and the matter is remanded for entry of summary judgment in favor of Appellant State and for calculation of the escrow amount owed by Appellee and entry of judgment thereon.</p>
5.	Status	Heard 06/14/12 in Nashville
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1.	Style	Walter Ray Culp, III v. Board of Professional Responsibility
2.	Docket Number	M2012-01816-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	To be heard 02/06/13 in Nashville
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1.	Style	Walton Cunningham, et cl. v. Williamson County Hospital District, et al.
2.	Docket Number	M2011-00554-SC-S09-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/cunninghamwopn.pdf">http://www.tncourts.gov/sites/default/files/cunninghamwopn.pdf</a>
4.	Lower Court Summary	Defendants, Williamson Medical Center and five of its employees, appeal from the denial of their motion to dismiss this medical malpractice action. They contend the action is time barred because it was filed more than one year after the cause of action accrued, in violation of the one year statute of limitations applicable to Tennessee Governmental Tort Liability Act actions, codified at Tennessee Code Annotated § 29-20-305(b). The trial court, however, found that the action was timely filed because it was commenced within the 120-day extension afforded to the plaintiffs pursuant to an amendment to the Tennessee Medical Malpractice Act, codified at Tennessee Code Annotated § 29-26-121(c) (2009). We have determined that the amendment codified at Tennessee Code Annotated § 29-26-121(a)-(c) applies, notwithstanding the one-year statute of limitations provision under the Governmental Tort Liability Act, that the plaintiffs' compliance with the pre-suit notification provision in Tennessee Code Annotate § 29-26-121(a) extended the statute of limitations by 120 days, and that this action was timely filed within the 120-day extension. Therefore, were affirm.
5.	Status	Heard 10/03/12 in Nashville
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1.	Style	In re: David E. Danner
2.	Docket Number	M2012-02019-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Filed 09/24/12; Record filed 12/05/12; Appellant's brief due 01/04/13
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1.	Style	Dick Broadcasting Co., Inc. v. Oak Ridge FM, Inc., et al.
2.	Docket Number	E2010-01685-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/dickbroadcastingopn.pdf">http://www.tncourts.gov/sites/default/files/dickbroadcastingopn.pdf</a>
4.	Lower Court Summary	The plaintiff filed suit against the defendants for causes of action sounding in contract after the defendants refused to consent to the assignment of certain agreements relating to the programming of a radio station. The parties filed competing summary judgment motions. The trial court dismissed the case, finding

as a matter of law that the defendants did not breach one of the contracts at issue. The plaintiff appealed. We reverse the judgment of the trial court.

5.	Status	Heard 09/05/12 in Knoxville
1.	Style	Cristy Irene Fair v. Stephen Lynn Cochran
2.	Docket Number	E2011-00831-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/fairciopn.pdf">http://tncourts.gov/sites/default/files/fairciopn.pdf</a> <a href="http://tncourts.gov/sites/default/files/faircidis.pdf">http://tncourts.gov/sites/default/files/faircidis.pdf</a>
4.	Lower Court Summary	The Trial Court dismissed this case based upon its finding that although plaintiff's Summons was issued the day she filed her Complaint, proof of service was not made to the clerk until 412 days later, and, because plaintiff had failed to comply with Tenn. R. Civ. P. 4, plaintiff was not entitled to rely on Tenn. R. Civ. P. 3 to toll the statute of limitations. Plaintiff appeals. We affirm.
5.	Status	To be heard 01/03/13 in Knoxville
1.	Style	Christopher Furlough v. Spherion Atlantic Workforce, LLC
2.	Docket Number	M2011-00187-SC-WCM-WC
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	This case involves a petition to set aside a workers' compensation claim settlement agreement. The employee was allegedly injured in the course and scope of his employment. He settled his claim at a Benefit Review Conference ("BRC") in June 2006, and the settlement was approved by a Department of Labor workers' compensation specialist. In April 2008, the employee filed a petition to set the settlement aside. The trial court ruled in favor of the employee, finding that he was not adequately represented by his attorney at the BRC. The employer appealed. We determine that because the parties failed to exhaust the administrative process, the employee's suit to set the settlement aside was premature. The appeal is dismissed, the judgment of the trial court is vacated, and the cause is remanded to the Department of Labor.
5.	Status	Heard 10/03/12 in Nashville
1.	Style	Glassman, Edwards, Wyatt, Tuttle & Cox, P.C. v. B.J. Wade and Shannon Crowe
2.	Docket Number	W2012-00321-SC-S10-CV
3.	Lower Court Decision Link	n/a

4.	Lower Court Summary	n/a
5.	Status	Heard 11/07/12 in Jackson
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1.	Style	Jim Hammond, Sheriff of Hamilton County et al. v. Chris Harvey et al.
2.	Docket Number	No. E2011-01700-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/hammondj.pdf">http://www.tncourts.gov/sites/default/files/hammondj.pdf</a>
4.	Lower Court Summary	Six sergeants (collectively “the Sergeants”) employed by Jim Hammond, the Sheriff of Hamilton County (“the Sheriff”), filed a grievance with the Hamilton County Sheriff’s Office Civil Service Board (“the Board”) complaining that there is an unlawful disparity in pay among the 19 sergeants on the force. The Board found a disparity and ordered the Sheriff “to equalize their pay and if all [s]ergeants do the same job that they should be paid the same if there is no written criteria to establish standards.” The Sheriff appealed to the trial court by petition for a writ of certiorari. The court (1) held that the Board was without authority to order the Sheriff to equalize the pay of the 19 sergeants and (2) declared the Board’s decision “null and void.” The Sergeants appeal. We modify the trial court’s judgment and remand to the Board with instructions.
5.	Status	To be heard 01/03/13 in Knoxville
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1.	Style	Roger David Hyman v. Board of Professional Responsibility
2.	Docket Number	E2012-02091-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Filed 10/05/12
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1.	Style	Clifton A. Lake et al v. The Memphis Landsmen, LLC et al
2.	Docket Number	W2011-00660-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/101/Clifton%20Lake%20etal%20v%20Memphis%20Landsmen%20OOC%20etal%20OPN.pdf">http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/101/Clifton%20Lake%20etal%20v%20Memphis%20Landsmen%20OOC%20etal%20OPN.pdf</a>  <a href="http://www.tncourts.gov/sites/default/files/landsmenopn.pdf">http://www.tncourts.gov/sites/default/files/landsmenopn.pdf</a>

4.	Lower Court Summary	This is an appeal from a jury verdict in a negligence and products liability case. Appellant-Husband was injured when the bus, on which he was a passenger, collided with a concrete truck. Appellant-Husband and Appellant-Wife filed suit against Appellees- the bus manufacturer, the bus owner, and the franchisor. Following trial, the jury found that the Appellants had suffered \$8,543,630.00 in damages, but found that none of the Appellees were at fault and apportioned one hundred percent of the fault to a non-party. Appellants appeal. We find that Appellants' claims based on the use of tempered glass in the side windows of the bus, and the lack of passenger seatbelts in the bus are preempted by the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. §30101 <i>et seq.</i> Further, we find that the Appellants failed to present evidence that the use of perimeter seating in the bus caused the injuries. Consequently, we find that the trial court erred in not granting Appellees' motions for directed verdict on the Appellants' claims based on the use of perimeter seating. Reversed and remanded.
5.	Status	Heard 11/07/12 in Jackson
1.	Style	Neal Lovlace et al. v. Timothy K. Copley et al.
2.	Docket Number	M2011-00170-SC-R11-CV
3.	Lower Court	<a href="http://www.tncourts.gov/sites/default/files/lovlacenopncorr.pdf">http://www.tncourts.gov/sites/default/files/lovlacenopncorr.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/lovlacen.concurrence.dissent.pdf">http://www.tncourts.gov/sites/default/files/lovlacen.concurrence.dissent.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/lovlacevcopleysepccon.pdf">http://www.tncourts.gov/sites/default/files/lovlacevcopleysepccon.pdf</a>
4.	Lower Court Summary	This is a modification of child visitation case, involving grandparent visitation. The Appellant grandparents appeal the trial court's order, denying their request for more visitation with the minor child, as well as the failure of the trial court to find the Appellee/Mother guilty of all alleged incidents of civil contempt. In the posture of Appellees, the mother and her husband (the child's adoptive father) argue that the Appellants are not entitled to any visitation. We conclude that in modification of grandparent visitation cases, if the parent is the movant, his or her burden is to show, by a preponderance of the evidence, that there has been a material change in circumstance affecting the child's best interest. However, where the movant is the non-parent, we hold that the grandparent visitation statute provides that the burden is on the non-parent to show, by a preponderance of the evidence, that there has been a material change in circumstance that would present a substantial risk of harm to the child if modification is denied. Because the trial court incorrectly applied the best interest standard, we vacate its order modifying the visitation arrangement. We also conclude that the trial court did not abuse its discretion in finding the mother in civil contempt on five counts; however, we conclude that the award of attorney's fees for that contempt is not clear as to what portion, if any, of those fees was expended for prosecution of the contempts, and what portion, if any, was expended in pursuit of the Appellees' attempt to modify the visitation order. Therefore, we also vacate the award of attorney's fees and remand for an award of those fees associated only with the prosecution of the contempts. Vacated in part, affirmed in part, and remanded.
5.	Status	To be heard 02/07/13 in Nashville



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1.	Style	H. Owen Maddux v. Board of Professional Responsibility
2.	Docket Number	E2012-01809-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Filed 08/27/12; Record filed 11/15/12; Appellant's brief due 01/11/13, after extension

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1.	Style	Aundrey Meals et al. v. Ford Motor Company
2.	Docket Number	W2010-01493-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/mealsaundreyopn.pdf">http://www.tncourts.gov/sites/default/files/mealsaundreyopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/mealsadis.pdf">http://www.tncourts.gov/sites/default/files/mealsadis.pdf</a>
4.	Lower Court Summary	Following a seven week trial, the jury returned a verdict in favor of Plaintiff in this products liability action. The jury awarded compensatory damages in excess of \$43 million, and assessed 15 percent fault against Defendant car manufacturer. Defendant appeals. We affirm the jury verdict with respect to liability but remand with a suggestion of remittitur.
5.	Status	Granted 08/15/12; No Appellant's brief filed; Appellee's brief filed 09/21/12; Appellant's reply brief filed 10/02/12

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1.	Style	Herbert S. Moncier v. Board of Professional Responsibility
2.	Docket Number	E2012-00340-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	To be heard 01/03/13 in Knoxville

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1.	Style	Morgan Keegan & Company, Inc. v. William Hamilton Smythe, III
2.	Docket Number	W2010-01339-SC-R11-CV

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/morgankeeganopn.pdf">http://www.tncourts.gov/sites/default/files/morgankeeganopn.pdf</a>
4.	Lower Court Summary	This appeal involves a trial court's order vacating an arbitration award. The parties engaged in arbitration over a dispute in which the respondent investors asserted that the petitioner investment company mismanaged their funds. The investors prevailed and received a substantial arbitration award against the investment company. The investment company filed a petition in the trial court to vacate the arbitration award, alleging partiality and bias on the part of two members of the arbitration panel. After a hearing, the trial court entered an order vacating the arbitration award and remanding the matter to the regulatory authority for a rehearing before another panel of arbitrators. The respondent investors now appeal. We dismiss the appeal for lack of appellate jurisdiction.
5.	Status	Heard 11/08/12 in Memphis
1.	Style	Eddie C. Pratcher, Jr. v. Consultants in Anesthesia, Inc. et al.
2.	Docket Number	W2011-01576-SC-S09-CV
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 11/08/12 in Memphis
1.	Style	Hong Samouth (Sam) Rajvongs v. Dr. Anthony Wright
2.	Docket Number	M2011-01889-SC-S09-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/rajvongsh_opn_corr.pdf">http://www.tncourts.gov/sites/default/files/rajvongsh_opn_corr.pdf</a>
4.	Lower Court Summary	A patient who alleged that he had been negligently injured by his podiatrist filed a complaint against him for malpractice, and then voluntarily dismissed the complaint without prejudice. Less than a year later, he furnished the defendant podiatrist with the sixty day notice of potential claim required by a recently enacted statute, Tenn. Code Ann. § 29-26-121(a). He subsequently refiled his complaint in reliance on his rights under the saving statute, Tenn. Code Ann. § 28-1-105. The defendant filed a motion for summary judgment, arguing that the complaint was time-barred under the saving statute because it was filed more than one year after the dismissal of the original complaint. The plaintiff contended, however, that he was entitled to the benefit of Tenn. Code Ann. § 29-26-121(c), which extends the statute of limitations on medical malpractice claims by 120 days if the plaintiff has complied with the sixty day notice requirement. The defendant responded by arguing that Tenn. Code Ann. § 29-26-121(c) does not apply to complaints filed under the saving statute.

The trial court dismissed the defendant's motion for summary judgment, but allowed him to file an application for interlocutory appeal because of the novelty of the legal question involved. After careful consideration of the relevant statutes, we hold that Tenn. Code Ann. § 29-26- 121(c) does apply to the saving statute, and we affirm.

5. Status To be heard 02/06/13 in Nashville

1. Style Velda J. Shore v. Maple Lane Farms, LLC et al.

2. Docket Number E2011-00158-SC-R11-CV

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/shoreopncorrected.pdf>

4. Lower Court Summary The plaintiff homeowner appeals from the trial court's dismissal of her complaint, in which the court found the defendants' farm activities were protected from the application of the local zoning laws by the Tennessee Right-to-Farm Act, Tennessee Code Annotated section 43-26-101, et seq. We affirm the judgment of the trial court.

5. Status To be heard 01/03/13 in Knoxville

1. Style In Re: Estate of Raymond L. Smallman, Deceased

2. Docket Number E2010-02344-SC-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/smallmanropn.pdf>

4. Lower Court Summary The two sons of decedent asked the Court to declare that their father died intestate and that his marriage to appellant a few days before he died was void because he was neither competent to make a will or enter into a marriage contract. Upon trial, the jury determined that the deceased was not of sound mind when he executed a will, a copy of which was filed in evidence, and the will was obtained through undue influence of appellant. The jury also found that the marriage between the decedent and appellant was invalid as well. The Trial Judge approved the jury verdict and appellant has appealed. We hold that material evidence supports the jury verdict as approved by the Trial Judge and remand.

5. Status Heard 10/05/12 at the 10th Judicial District S.C.A.L.E.S. project in Athens

1. Style State v. Prince Adams

2. Docket Number W2009-01492-SC-R11-CD

3. Lower Court <http://www.tncourts.gov/sites/default/files/adamspopn.pdf>

	Decision Link	
4.	Lower Court Summary	The defendant, Prince Adams, was convicted by a Shelby County jury of premeditated first degree murder and subsequently sentenced to life in the Tennessee Department of Correction. He now appeals his conviction, presenting five issues for our review: (1) whether the evidence is sufficient to support the conviction; (2) whether the trial court properly allowed into evidence photographs of the victim (a) while she was alive and (b) of her body at the crime scene; (3) whether the court properly denied the defendant's motion in limine with regard to the admission of his prior domestic violence charge; (4) whether the defendant is entitled to a new trial because an alternate juror left a note expressing his position with regard to the defendant's guilt, which was found by the jury foreperson prior to jury deliberations; and (5) whether the court correctly denied the defendant's request for a special jury instruction on diminished capacity. Following review of the record, we find no issue that would entitle the defendant to relief. As such, the conviction and sentence are affirmed.
5.	Status	Heard 11/08/12 in Memphis
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1.	Style	Tracy Rose Baker v. State
2.	Docket Number	M2011-01381-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/bakertropn.pdf">http://www.tncourts.gov/sites/default/files/bakertropn.pdf</a>
4.	Lower Court Summary	The Appellant, Tracy Rose Baker, appeals the post-conviction court's dismissal of her petition for post-conviction relief. The Appellant asserts that her guilty plea to criminal contempt charges is void due to constitutional infirmities stemming from the chancery court's failure to conduct an in-court guilty plea acceptance hearing at the time of her guilty plea. Because we conclude that the Post-Conviction Procedure Act is not applicable to the Petitioner's criminal contempt convictions, we affirm the post-conviction court's dismissal of the Appellant's petition.
5.	Status	Granted 11/28/12; Appellant's brief due 12/28/12
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1.	Style	State v. Courtney Bishop
2.	Docket Number	W2010-01207-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/bishopcourtneyopn.pdf">http://www.tncourts.gov/sites/default/files/bishopcourtneyopn.pdf</a>
4.	Lower Court Summary	The defendant, Courtney Bishop, appeals his Shelby County Criminal Court jury convictions for felony murder and attempted aggravated robbery, challenging the sufficiency of the convicting evidence and the trial court's refusal to suppress his pretrial statement to police. Because the trial court erred by failing to suppress the

defendant's statement, the defendant is entitled to a new trial. Because the evidence was insufficient to support the defendant's convictions for attempted aggravated robbery and first degree murder in the perpetration of attempted aggravated robbery, those convictions are reversed. The conviction for attempted aggravated robbery is dismissed. The conviction for first degree murder is modified to one for second degree murder. Accordingly, the case is remanded for a new trial on the modified charge of second degree murder.

5.	Status	Granted 08/15/12; Appellant's brief filed 10/15/12; State's response brief due 12/17/12, after extension
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1.	Style	Derrick Brandon Bush v. State
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2.	Docket Number	M2011-02133-SC-R11-PC
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3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/bushdopn.pdf">http://tncourts.gov/sites/default/files/bushdopn.pdf</a>
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4.	Lower Court Summary	Derrick Brandon Bush ("the Petitioner") pled guilty to two counts of attempt to commit rape in December 2000. On April 25, 2011, the Petitioner filed for post-conviction relief, alleging that his guilty plea was unconstitutional in light of <i>Ward v. State</i> , 315 S.W.3d 461 (Tenn. 2010), and that the one-year post-conviction statute of limitations should be tolled. After a hearing, the post-conviction court granted relief. The State appealed. Upon our thorough review of the record, we hold that the rule announced in <i>Ward</i> does not apply retroactively. Therefore, the Petitioner is not entitled to tolling of the statute of limitations pursuant to Tennessee Code Annotated section 40-30-102(b)(1). We also hold that the Petitioner is not entitled to tolling on due process grounds. Thus, the Petitioner's claim for relief is barred by the statute of limitations. Accordingly, we reverse the judgment of the post-conviction court.
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5.	Status	Granted 10/17/12; No Appellant's brief filed; State's response brief filed 12/06/12
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1.	Style	State v. Terrance Antonio Cecil
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2.	Docket Number	M2011-01210-SC-R11-CD
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/cecilterranceopn_0.pdf">http://www.tncourts.gov/sites/default/files/cecilterranceopn_0.pdf</a>
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4.	Lower Court Summary	A Maury County jury convicted the Defendant, Terrance Antonio Cecil, of assault and false imprisonment, both Class A misdemeanors. The trial court sentenced the Defendant to concurrent sentences of six months incarceration, with all but sixty days on each suspended, followed by ten months on probation. On appeal, the Defendant contends: (1) the evidence is insufficient to sustain his convictions; (2) the trial court erred when it considered his prior arrest record in sentencing; and (3) the trial court committed plain error by failing to instruct the jury on the lesser-included offenses of attempted false imprisonment and attempted assault. After a
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thorough review of the record and relevant authorities, we affirm the trial court's judgments.

5.	Status	Granted 11/29/12; Appellant's brief due 01/02/13
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1.	Style	State v. David Hooper Climer, Jr.
2.	Docket Number	W2010-01667-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/climerdavidopn.pdf">http://www.tncourts.gov/sites/default/files/climerdavidopn.pdf</a>
4.	Lower Court Summary	A Gibson County Circuit Court jury convicted the appellant, David Hooper Climer, Jr., of first degree premeditated murder and abuse of a corpse, and the trial court sentenced him to consecutive sentences of life and two years, respectively. On appeal, the appellant contends that (1) the evidence is insufficient to support the premeditated murder conviction and shows he was insane when he abused the victim's corpse, (2) the trial court should have granted his motion to sever, (3) the trial court should have granted his motion to suppress his statements to police, (4) he was denied his right to a speedy trial, and (5) the trial court should have dismissed a prospective juror for cause. Based upon our review of the record and the parties' briefs, we conclude that the evidence is insufficient to support the appellant's conviction of first degree premeditated murder but that the evidence is sufficient to support a conviction for the lesser-included offense of second degree murder. The appellant's first degree murder conviction is reduced to second degree murder, and the case is remanded to the trial court for resentencing. The appellant's conviction of abuse of a corpse is affirmed.
5.	Status	Heard 11/07/12 in Jackson
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1.	Style	State v. Kevin Anthony Dickson
2.	Docket Number	E2010-01781-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/dicksonkevinanthonyopn.pdf">http://tncourts.gov/sites/default/files/dicksonkevinanthonyopn.pdf</a> <a href="http://tncourts.gov/sites/default/files/dicksondissent2.pdf">http://tncourts.gov/sites/default/files/dicksondissent2.pdf</a>
4.	Lower Court Summary	The Defendant, Kevin Anthony Dickson, Jr., was found guilty by the Sevier County Circuit Court of two counts of attempted first degree murder, a Class A felony, especially aggravated burglary, a Class B felony, two counts of aggravated assault, a Class C felony, and attempted aggravated robbery, a Class C felony. See T.C.A. §§ 39-13-202 (2010), 39-14-404 (2010), 39-13-102 (2006) (amended 2009, 2010, 2011), 39-13-402 (2010), 39-12-101 (2010). The trial court merged one count of aggravated assault into an attempted first degree murder conviction. The Defendant was sentenced as a Range I, standard offender to twenty-five years for each attempted first degree murder conviction, twelve years for especially aggravated burglary, and six years each for the aggravated assault and attempted aggravated robbery convictions. The trial court ordered the attempted first degree murder convictions to be served consecutively, for an effective sentence of fifty years. On appeal, the Defendant contends that (1) the evidence is insufficient to support his

attempted first degree murder convictions, (2) his conviction for especially aggravated burglary is barred by Tennessee Code Annotated section 39-14-404(d), and (3) the trial court erred by applying improper sentencing enhancement factors and ordering partially consecutive sentences. We affirm the judgments for the attempted first degree murder of Christopher Lyons, aggravated assault, and attempted aggravated robbery. We reverse the judgments for the attempted first degree murder of Rodney Hardin and especially aggravated burglary and remand the case for sentencing and entry of judgments of conviction for attempted second degree murder and aggravated burglary.

5.	Status	Granted 10/17/12; Appellant's brief filed 11/16/12; Appellee's brief filed 12/17/12
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1.	Style	State v. LeDarren Hawkins
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2.	Docket Number	W2010-01687-SC-R11-CD
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3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/hawkinslsopn.pdf">http://tncourts.gov/sites/default/files/hawkinslsopn.pdf</a>
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4.	Lower Court Summary	A Madison County jury convicted the Defendant, LeDarren S. Hawkins, of first degree murder and tampering with evidence, and the trial court sentenced him to serve an effective life sentence in the Tennessee Department of Correction. On appeal, the Defendant contends that the evidence is insufficient to support his convictions and that the trial court refused to instruct the jury regarding the defense of a third person as an affirmative defense. After a thorough review of the record and the applicable law, we affirm the trial court's judgments.
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5.	Status	To be heard 02/06/13 in Nashville
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1.	Style	State vs. Nickolus L. Johnson
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2.	Docket Number	E2010-00172-SC-DDT-DD
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/johnsonnickolusopn.pdf">http://www.tncourts.gov/sites/default/files/johnsonnickolusopn.pdf</a>
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4.	Lower Court Summary	A Sullivan County jury convicted the Defendant, Nickolus L. Johnson, of premeditated firstdegree murder, see Tenn. Code Ann. § 39-13-202(a)(1) (2006), for the shooting death of Officer Mark Vance of the Bristol Police Department. Following penalty phase proceedings, the jury found the presence of the following two aggravating circumstances: (1) that the defendant previously had been convicted of one or more felonies whose statutory elements involved the use of violence to the person; and (2) that the defendant knew or should have known when he committed the murder that the victim was a law enforcement officer engaged in the performance of his official duties. See Tenn. Code Ann. § 39-13-204(i)(2), (9) (2006). After finding that these aggravating circumstances outweighed any mitigating factors presented by the defense, the jury sentenced the Defendant to death. See Tenn. Code Ann. § 39-13-204(g)(1) (2006). In this appeal, the
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Defendant challenges both his conviction and accompanying death sentence. He raises the following issues for our review: (1) whether the evidence presented during the guilt phase was sufficient to support his conviction; (2) whether Tennessee's death penalty statute violates article I, section 19 of the Tennessee Constitution; (3) whether the exclusion of jurors from the jury based on their views on the death penalty violates article I, sections 6 and 19 of the Tennessee Constitution; (4) whether the trial court erred in admitting into evidence the videotape of the Defendant taken in Officer Graham's patrol car immediately following the Defendant's arrest; (5) whether the trial court erred in failing to require defense counsel to present mental health mitigation evidence despite the Defendant's objection to the presentation of such evidence; (6) whether individual and cumulative instances of prosecutorial misconduct during closing argument at the penalty phase denied the Defendant his right to a fair trial and should have resulted in the trial court declaring a mistrial; (7) whether the trial court erred in denying defense counsel's requests for special jury instructions during the penalty phase in response to the prosecutor's assertion during closing that the Defendant had failed to express remorse; (8) whether the trial court erred in denying the Defendant's oral motion for a change of venue based on the effect pretrial publicity in the case had on potential jurors; (9) whether the trial court erred in denying defense counsel's request for authorization of funds with which to hire an expert to support the claim that pretrial publicity in the case required a change of venue in order to protect the Defendant's right to a fair trial; and (10) whether the trial court erred in denying defense counsel's request for additional peremptory challenges during jury selection. Following our review of the record, and our mandatory review of the sentence, see Tenn. Code Ann. § 39-13-206(c)(1) (2006), we affirm the judgments including the sentence of death.

5.	Status	To be heard 01/03/13 in Knoxville
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1.	Style	David Keen v. State
2.	Docket Number	W2011-00789-SC-R11-PC
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 05/31/12 at Girls' State S.C.A.L.E.S. project
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1.	Style	State v. Jereme Dannuel Little
2.	Docket Number	E2009-01796-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/littlejeremedannuelopn.pdf">http://www.tncourts.gov/sites/default/files/littlejeremedannuelopn.pdf</a>
4.	Lower Court Summary	A Hamilton County grand jury charged the defendant, Jereme Dannuel Little, in number 253372, with two counts of aggravated robbery, <i>see</i> T.C.A. § 39-13-402



(2006), and, in case number 253374, with one count of especially aggravated kidnapping, *see id.* § 39-13-305. At the close of proof at trial, the trial court granted the defendant's motion for judgments of acquittal on the two aggravated robbery counts. The jury, however, convicted the defendant of especially aggravated kidnapping, and the trial court imposed a sentence of 18 years' incarceration in the Tennessee Department of Correction. On appeal, the defendant contends that the trial court erred by (1) failing to inform the jury regarding the judgments of acquittal of the aggravated robberies; (2) failing to instruct the jury regarding corroboration of accomplice testimony; (3) instructing the jury regarding criminal responsibility for the conduct of another; (4) prohibiting counsel from "putting into evidence or mentioning" during closing argument that the defendant had been acquitted of the two counts of aggravated robbery; and (5) allowing the district attorney to argue at closing that the defendant had committed the aggravated robbery offenses, as relevant to motive for the especially aggravated kidnapping charge. Additionally, the defendant contends that the cumulative effect of the trial court's errors denied him a fair trial. Discerning no reversible error, we affirm the judgment of the trial court.

5.	Status	Heard 09/04/12 in Knoxville at UT College of Law
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1.	Style	State v. Kimberly Mangrum
2.	Docket Number	M2009-01810-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/mangrumkimberlyopn.pdf">http://www.tncourts.gov/sites/default/files/mangrumkimberlyopn.pdf</a>
4.	Lower Court Summary	Defendant, Kimberly Mangrum, was indicted by the Dickson County Grand Jury for especially aggravated burglary, especially aggravated kidnapping, first degree premeditated murder, felony murder, and four counts of criminal conspiracy, related to the commission of each of those offenses. Following a jury trial, Defendant was convicted of aggravated burglary, especially aggravated kidnapping, attempted first degree premeditated murder, and felony murder. Her conviction for attempted first degree premeditated murder was merged into her felony murder conviction, and she was sentenced to life imprisonment for her first degree felony murder conviction, twenty-five years for especially aggravated kidnapping, and six years for aggravated burglary, with the sentences to be served concurrently. In this direct appeal, Defendant challenges the sufficiency of the convicting evidence and asserts that the trial court erred by not dismissing the indictment following what, Defendant contends, was the State's misuse of the grand jury proceedings. After a thorough review of the record, we affirm the judgments of the trial court.
5.	Status	Heard 10/03/12 in Nashville
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1.	Style	State v. Angela M. Merriman
2.	Docket Number	M2011-01682-SC-R11-CD

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/merrimanangelamopn.pdf">http://www.tncourts.gov/sites/default/files/merrimanangelamopn.pdf</a>
4.	Lower Court Summary	The State of Tennessee appeals as of right the Warren County Circuit Court's dismissal of three counts of an indictment charging the defendant, Angela M. Merriman, with driving under the influence (DUI), second offense; felony reckless endangerment; and reckless driving. Following our review of a destruction of evidence issue under an abuse of discretion rather than a de novo standard, we affirm the judgment of the trial court.
5.	Status	Heard 10/02/12 in Nashville
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1.	Style	State v. James David Moats
2.	Docket Number	E2010-02013-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/moatsjamesdavidopn.pdf">http://www.tncourts.gov/sites/default/files/moatsjamesdavidopn.pdf</a>
4.	Lower Court Summary	The defendant, James David Moats, stands convicted of driving under the influence ("DUI"), fourth or greater offense, a Class E felony. The trial court sentenced him as a Range I, standard offender to two years in the Tennessee Department of Correction. On appeal, the defendant argues that the trial court erred by denying his motion to suppress and motion for judgment of acquittal. Following our review, we conclude that under the facts of this case the police officer seized the defendant when she pulled up behind the defendant's parked vehicle and activated her blue emergency lights. We further conclude that the officer did not have a reasonable suspicion of criminal activity to justify the seizure. As such, the trial court erred by denying the defendant's motion to suppress evidence, and we reverse the judgment of the trial court.
5.	Status	Heard 10/05/12 at the 10th Judicial District S.C.A.L.E.S. project in Athens
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1.	Style	Brandon Mobley v. State
2.	Docket Number	E2010-00379-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tsc.state.tn.us/sites/default/files/mobleybrandonopn.pdf">http://www.tsc.state.tn.us/sites/default/files/mobleybrandonopn.pdf</a>
4.	Lower Court Summary	The petitioner, Brandon Mobley, appeals from the Knox County Criminal Court's denial of his petition for post-conviction relief challenging his 2005 convictions of two counts of premeditated first degree murder, especially aggravated robbery, and setting fire to personal property for which he is now serving two consecutive life sentences plus 19 years in the custody of the Department of Correction. On appeal, the petitioner contends that the post-conviction court erred by denying his petition for post-conviction relief based upon allegations that he was denied the effective

assistance of counsel and other constitutional deprivations. Because we determine that the petitioner is entitled to relief on the issue of the ineffective assistance of counsel concerning the use of expert testimony, we reverse the judgment of the post-conviction court.

5.	Status	Heard 10/05/12 at the 10th Judicial District S.C.A.L.E.S. project in Athens
1.	Style	State v. Corinio Pruitt
2.	Docket Number	W2009-01255-SC-R3-DD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_corinio_pruitt.pdf">http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_corinio_pruitt.pdf</a>
4.	Lower Court Summary	Capital Appellant, Corinio Pruitt, appeals as of right from his conviction for first degree felony murder and his sentence of death resulting from the August 2005 death of Lawrence Guidroz. On February 29, 2008, a Shelby County jury found the Appellant guilty of one count of second degree murder and one count of first degree felony murder, and the trial court merged the conviction for second degree murder with the first degree murder conviction. At the conclusion of the penalty phase, the jury unanimously found the presence of three statutory aggravating circumstances; specifically, (1) the defendant had previously been convicted of one or more felonies involving the use of violence, (2) the murder was knowingly committed while the defendant had a substantial role in committing a robbery, and (3) the victim was seventy (70) years of age or older. See T.C.A. § 39-13-204(i)(2), (7), (14). The jury further determined that these three aggravating circumstances outweighed any mitigating circumstances and imposed a sentence of death. The trial court approved the sentencing verdict. On appeal, the Appellant presents the following issues for our review: (1) whether the trial court erred in failing to find the Appellant intellectually disabled and ineligible for the death penalty, (2) whether the evidence is sufficient to support a conviction for first degree felony murder, (3) whether the trial court erred in permitting the introduction of the autopsy photographs of the victim, (4) whether application of the (i)(7) aggravating circumstance is constitutional, (5) whether the evidence is sufficient to support application of the (i)(7) aggravator, and (6) whether the sentence of death is proportionate in the present case. After a thorough review of the record and the applicable law, we affirm the judgment of the trial court.
5.	Status	Heard 06/14/12 in Nashville; Reargument ordered 12/06/12; Appellant's brief due 01/07/13
1.	Style	Paul Dennis Reid v. State (consolidated appeal)
2.	Docket Number	M2009-00128-SC-R11-PD; M2009-00360-SC-R11-PD; M2009-01557-SC-R11-PD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/reidpauldennisopn.pdf">http://www.tncourts.gov/sites/default/files/reidpauldennisopn.pdf</a>

4.	Lower Court Decision Summary	Paul Dennis Reid, Jr. was convicted and sentenced to death on seven counts of first degree murder. Reid's convictions and sentences were affirmed on direct appeal by the supreme court. The instant appeals stem from evidentiary hearings wherein the Montgomery and Davidson County trial courts concluded that Reid was competent to decide on his own behalf to forego any post-conviction relief on his convictions and sentences. Following our review, we affirm the judgments of the trial courts.
5.	Status	Heard 10/03/12 in Nashville
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1.	Style	State v. Bobby Lee Robinson
2.	Docket Number	M2009-02450-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/robinsonbobbyleeopn.pdf">http://www.tncourts.gov/sites/default/files/robinsonbobbyleeopn.pdf</a>
4.	Lower Court Summary	A Davidson County jury convicted the Defendant, Bobby Lee Robinson, of possession of more than 300 grams of cocaine with intent to sell, a Class A felony; and possession of drug paraphernalia, a Class A misdemeanor. The jury convicted the Defendant, Jamie Nathaniel Grimes, of possession of more than 300 grams of cocaine with intent to sell, a Class A felony; possession of marijuana, a Class A misdemeanor; and possession of drug paraphernalia, a Class A misdemeanor. The trial court sentenced Robinson to seventeen years as a standard offender for the cocaine offense, and eleven months and twenty-nine days for the misdemeanor offense, with all of the sentences to be served concurrently. The trial court sentenced Grimes to thirty years as a multiple offender for the cocaine offense and to eleven months and twenty-nine days for each misdemeanor offense, ordering all of the sentences to be served concurrently. On appeal, Robinson argues that: (1) the trial court erred when it allowed the State to introduce a redacted tape recording and transcript of statements he made during his arrest; (2) the trial court erred when it denied his motion for judgment of acquittal; and (3) the evidence was insufficient to support his convictions. Grimes argues that the trial court erred when it: (1) improperly admitted evidence about the weight of the cocaine; (2) denied his motion for disclosure of the confidential informant's identity; and (3) admitted a transcript of a recorded conversation between him and the confidential informant into evidence. After reviewing the record, the parties' briefs, and the applicable law, we affirm the judgments of the trial court as to both Defendants.
5.	Status	Heard 10/04/12 in Nashville
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1.	Style	State v. Glover P. Smith
2.	Docket Number	M2011-00440-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/smithgloveropn.pdf">http://www.tncourts.gov/sites/default/files/smithgloveropn.pdf</a>

4.	Lower Court Summary	A Rutherford County Circuit Court Jury convicted the appellant, Glover P. Smith, of fabricating evidence in counts 1 and 2 and filing a false report in counts 3 through 8. During a sentencing hearing, the trial court merged the appellant's convictions of filing a false report in counts 3, 4, and 5 and ordered that he serve an effective sentence of one year in jail followed by six years of probation. Subsequently, the trial court granted the appellant's motion for judgment of acquittal as to the fabricating evidence convictions based upon insufficient evidence. On appeal, the State contends that the trial court erred by granting the appellant's motion for judgment of acquittal. In a counter-appeal, the appellant maintains that the evidence is insufficient to support the convictions; that the trial court improperly instructed the jury on "knowingly"; that newly discovered evidence warrants a new trial; that the State committed a Brady violation; that his multiple convictions in counts 3, 4, and 5 and in counts 6, 7, and 8 violate double jeopardy; that the trial court improperly enhanced his sentences and improperly denied his request for full probation; and that the cumulative effect of the errors warrants a new trial. Based upon the oral arguments, the record, and the parties' briefs, we conclude that the trial court erred by granting the appellant's motion for judgment of acquittal and reinstate his convictions of fabricating evidence in counts 1 and 2, the merger of the convictions, and the sentence. We also conclude that the trial court should have dismissed the charges of filing a false report in counts 4 and 5 because they were multiplicitous with the charge in count 3. The appellant's remaining convictions and sentences for filing a false report in counts 6, 7, and 8 are affirmed.
5.	Status	Granted 12/13/12; Appellant's brief due 01/14/13
1.	Style	State v. William Darelle Smith
2.	Docket Number	M2010-01384-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/smithwilliamopn.pdf">http://www.tncourts.gov/sites/default/files/smithwilliamopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/smithwilliamdarrelcon.pdf">http://www.tncourts.gov/sites/default/files/smithwilliamdarrelcon.pdf</a>
4.	Lower Court Summary	A Davidson County jury convicted the Defendant, William Darelle Smith, of first degree premeditated murder, and the trial court sentenced the Defendant to serve a life sentence in the Tennessee Department of Correction. The Defendant appeals his conviction, claiming the following: (1) the trial court erred when it allowed the Defendant's girlfriend to testify about threatening statements the Defendant made two or three days before the victim's murder; (2) the evidence is insufficient to support his conviction; and (3) the trial court erred when it failed to inquire into possible juror misconduct. After a thorough review of the record and applicable law, we affirm the trial court's judgment.
5.	Status	To be heard 02/07/13 in Nashville
1.	Style	State v. Michael Shane Springer
2.	Docket Number	W2010-02153-SC-R11-CD

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/springermopn.pdf">http://www.tncourts.gov/sites/default/files/springermopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/springermcon.pdf">http://www.tncourts.gov/sites/default/files/springermcon.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/springermichaelconglenn.pdf">http://www.tncourts.gov/sites/default/files/springermichaelconglenn.pdf</a>
4.	Lower Court Summary	The Defendant pled guilty to two counts of rape of a child and reserved the following certified question: “Whether the Trial Court erred in failing to grant the defendant’s Motion to Dismiss alleging the State violated the provisions of the Interstate Agreement on Detainers (T.C.A. 40-31-101 et seq, U.S. Code Title 18-App) and the anti-shuttling provisions therein pursuant to <i>Alabama v. Bozeman</i> , 5[3]3 U.S. 146 (2001).” For differing reasons, the majority of this panel affirms the Defendant’s convictions.
5.	Status	To be heard 02/06/13 in Nashville
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1.	Style	State v. Sidney S. Stanton, III
2.	Docket Number	M2010-01868-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/stantoniisidneyopn.pdf">http://www.tncourts.gov/sites/default/files/stantoniisidneyopn.pdf</a>
4.	Lower Court Summary	The Defendant, Sidney S. Stanton, III, appeals from the Warren County Circuit Court’s order denying the Defendant relief from the assistant district attorney general’s denial of pretrial diversion. After a hearing, the trial court affirmed the denial of diversion and found no abuse of prosecutorial discretion but granted the Defendant’s motion for this interlocutory appeal. The Defendant contends that the assistant district attorney general abused his discretion by denying the Defendant’s application for pretrial diversion and that the trial court erred in declining to grant certiorari, finding that there was no abuse of prosecutorial discretion. Following our review, we affirm the judgment of the trial court.
5.	Status	Heard 10/02/12 in Nashville
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1.	Style	Artis Whitehead v. State
2.	Docket Number	W2010-00784-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/whiteheadartisopn.pdf">http://www.tncourts.gov/sites/default/files/whiteheadartisopn.pdf</a>
4.	Lower Court Summary	The petitioner, Artis Whitehead, appeals from the denial of his untimely petition for post-conviction relief. The post-conviction court denied the petition after finding that due process concerns did not toll the statute of limitations. The petitioner argues that due process concerns should toll the statute of limitations because (1) appellate counsel still represented him when she sent a letter informing him of the incorrect deadline for filing his petition for post-conviction relief and (2) that incorrect information was a misrepresentation sufficient to cause due process

concerns to toll the statute of limitations. Upon our careful review of the record, the parties' arguments, and the applicable law, we affirm the denial of post-conviction relief.

5.	Status	Heard 10/02/12 in Nashville
1.	Style	Christine Stevens ex rel. Mark Stevens v. Hickman Community Health Care Services, Inc. et al.
2.	Docket Number	M2012-00582-SC-S09-CV
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Granted 10/17/12; Appellant's brief filed 12/12/12; Appellee's brief due 01/11/13
1.	Style	In re: Taylor W. et al
2.	Docket Number	E2011-00352-SC-R11-PT
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/taylorbwopn.pdf">http://www.tncourts.gov/sites/default/files/taylorbwopn.pdf</a>
4.	Lower Court Summary	The father and his wife petitioned the Court to terminate the parental rights of the two minor children's mother and allow the father's wife to adopt the two minor children. After a myriad of pleadings, the Trial Court held an evidentiary hearing and ruled that the father had proved statutory grounds to terminate the mother's parental rights, and that it was in the best interest of the two minor children that her parental rights be terminated. The mother petitioned to reconsider, and upon further consideration the Trial Court reversed its ruling and held that it was not in the children's best interest to terminate her rights as a parent of the two children. Petitioners appealed, and on appeal we hold that clear and convincing evidence established the statutory grounds for termination and clear and convincing evidence established that it was in the children's best interest to terminate the mother's parental rights. Further, that the Trial Judge in reversing her findings that it was in the best interest of the children to terminate the parental rights of the mother, focused on the rights of the mother rather than the rights of the children, as required by the statute and authorities. We reinstate the original Judgment of the Trial Court terminating the mother's parental rights.
5.	Status	Heard 09/05/12 in Knoxville
1.	Style	Sandra Thompson v. Memphis City Schools Board of Education
2.	Docket Number	W2010-02631-SC-R11-CV

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/thompsonsaoon.pdf">http://www.tncourts.gov/sites/default/files/thompsonsaoon.pdf</a>
4.	Lower Court Summary	This is a case involving a teacher who was dismissed without a hearing. Appellee teacher failed to return to work after a sick leave and her employment was terminated by the Appellant school board. When the school board refused to give the Appellee a tenure hearing, she filed a complaint for damages based on the Teachers' Tenure Act and violations of her due process rights. Despite attempts to hold a tenure hearing, no hearing was ever held. On cross-motions for summary judgment, the chancellor reinstated Appellee and awarded her back pay. After a hearing on damages, the chancellor awarded compensatory damages and attorney fees under 42 U.S.C. § 1983. School board appeals. We affirm the denial of the school board's motions to dismiss and for summary judgment, but vacate and remand the grant of Appellee's motion for partial summary judgment. Affirmed in part, vacated in part, and remanded.
5.	Status	Heard 10/04/12 in Nashville
1.	Style	Marta Vandall v. Aurora Healthcare, LLC
2.	Docket Number	W2011-02042-SC-R3-WC
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Transferred to full Court 11/13/12; Appellant's supplemental brief filed 12/07/12
1.	Style	Westgate Smoky Mountains at Gatlinburg v. Karla Davis, Commissioner of the Tennessee Department of Labor and Workforce Development et al.
2.	Docket Number	E2011-02538-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/westgateoon.pdf">http://www.tncourts.gov/sites/default/files/westgateoon.pdf</a>
4.	Lower Court Summary	This is an unemployment compensation case. Cynthia L. Vukich-Daw filed a claim for unemployment compensation following her termination from Westgate Resorts. The claim was originally granted by the Tennessee Department of Labor and Workforce Development and subsequently upheld by the Appeals Tribunal and the Board of Review. Westgate Resorts filed a petition for judicial review, and the trial court reversed the Board of Review's decision, finding that Cynthia L. Vukich-Daw was ineligible to receive unemployment compensation benefits because she was a qualified real estate agent pursuant to Tennessee Code Annotated section 50-7-207. Cynthia L. Vukich-Daw and the Tennessee Department of Labor and Workforce Development appeal. We reverse the decision of the trial court.



5.	Status	Granted 12/11/12; Appellant's brief due 01/10/13
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1.	Style	Rheaetta F. Wilson, et al. v. Americare Systems, Inc., et al.
2.	Docket Number	M2011-00240-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/wilsonroptn.pdf">http://www.tncourts.gov/sites/default/files/wilsonroptn.pdf</a>
4.	Lower Court Summary	Decedent's next of kin filed this wrongful death action against an assisted living facility, two nurses, and the facility's management company for failure to provide proper care and treatment. This appeal concerns only the jury verdict and judgment finding the management company directly liable for failure to provide adequate staff at the assisted living facility. We find no material evidence to support a conclusion that any staffing deficiency proximately caused the decedent's death. We therefore reverse the judgment finding direct liability on the part of the management company.
5.	Status	Heard 10/03/12 in Nashville